

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

IDEAL INNOVATIONS, INC.,)	
THE RIGHT PROBLEM, LLC, and)	
ROBERT KOCHER,)	No. 1:17-cv-00889
)	
Plaintiffs,)	Senior Judge Edward J. Damich
)	
v.)	THE UNITED STATES' MOTION TO
)	ISSUE RULE 14(b) NOTICES
THE UNITED STATES OF)	
AMERICA,)	
)	
Defendant.)	
)	

The United States of America ("United States") moves for the Court to issue notice that, if they so desire, the following may appear and defend any interests they may have pursuant to Rule 14(b):

Navistar Inc.
c/o CT Corporation System
4701 Cox Rd., Suite 285
Glen Allen, VA 23060

General Dynamics Corporation
c/o CT Corporation System
4701 Cox Rd., Suite 285
Glen Allen, VA 23060

BAE Systems Inc.
c/o CT Corporation System
4701 Cox Rd., Suite 285
Glen Allen, VA 23060

Oshkosh Corporation
c/o CT Corporation System
4701 Cox Rd., Suite 285
Glen Allen, VA 23060

STATEMENT IN SUPPORT OF MOTION

Plaintiffs Ideal Innovations, Inc., The Right Problem, LLC, and Robert Kocher (collectively “Plaintiffs”) initiated this action to recover on patent and trade secret claims related to certain federal acquisitions. *See generally* R. 1 (Complaint).

Plaintiffs identified the “patents-in-suit” as United States Patents Nos. 7,401,540 (“the ‘540 Patent”), 8,365,648 (“the ‘648 Patent”), and 8,651,008 (“the ‘008 Patent”). *See id.* at ¶ 9-12. The patents-in-suit pertain to an armor “configuration” for protecting military vehicles from *inter alia* explosively formed projectiles. *See, e.g., id.* at ¶ 12. Plaintiffs alleged the United States is liable for patent infringement because the United States “has infringed, and continues to infringe, one or more claims of the [patents-in-suit] by making, using, and/or having manufactured, without license or lawful right, the invention taught by this patent.” *See, e.g., id.* at ¶ 46, 69, 84.

Plaintiffs identified the “trade secrets” at issue as pertaining to: “the technical characteristics and specifications of prototypes equipped with Mr. Kocher’s armor system, the specific materials used in I-3’s prototype implementation of the armor system, [] implementation details (including photographs) showing how a commercially available vehicle can be transformed into an EFP-resistant vehicle,” and “itemized cost savings over other military vehicles that Mr. Kocher’s invention would enable.” *See, e.g., id.* at ¶ 19. Plaintiffs allege the United States is liable on their trade secret related claims because *inter alia* it shared Plaintiffs’ trade secrets with Plaintiffs’ competitors, including at least one of the above named suppliers. *See id.* at ¶¶ 87-103.

Based on the Complaint’s allegations, the allegedly infringing product may have

been sold by the suppliers identified above, either directly or by way of the suppliers' status as the successor-in-interest to a direct supplier. As a result, each of the above named suppliers may be an indemnitor or commercial user of the accused product and, as such, may have an interest in appearing and defending their rights. The issuance of the requested notice for each of the abovementioned companies conforms to the established practice of the United States Court of Federal Claims. *See, e.g., Carrier Corp. v. United States*, 534 F.2d 250, 251-52 (Ct. Cl. 1976); *Bowser, Inc. v. United States*, 420 F.2d 1057, 1060 (Ct. Cl. 1970); *Rockwell Int'l Corp. v. United States*, 31 Fed. Cl. 536, 539-40 (1994); *see also In re UUSI, LLC*, 549 Fed. Appx. 964 (Fed. Cir. 2013).

CONCLUSION

For the above-stated reasons, the government respectfully requests that this motion be granted and the requested notices be issued.

Date: January 29, 2018

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General

GARY L. HAUSKEN
Director

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